

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LEO M. PETERS
RESPONDENT.

FINAL DECISION AND ORDER
97 REB 147

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Leo M. Peters
2230 N. Terrace Ave.
Milwaukee, WI 53202

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board . The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. **Leo M. Peters** ("Peters"), date of birth 01/18/37, is licensed in the State of Wisconsin as a real estate salesperson having license # 94-742. This license was first granted to him on 11/25/58.
2. Peter's most recent address on file with the Department of Regulation and Licensing is 2230 Terrace Ave., Milwaukee, WI 53202.
3. At all times relevant to the facts set forth in this Complaint, Peters was a real estate salesperson for, and sole proprietor of, real estate firm Barrett Realty Co., now known as Barrett Realty, LLC. Barrett Realty, LLC. is currently licensed with the Department of Regulation and Licensing as a real estate business entity, license # 91 700271, first granted on September 8, 1999. The most recent address on file for Barrett Realty, LLC with the Department of Regulation and Licensing is 6300 N. Port Washington Rd. Milwaukee WI 53217.

COUNT 1

4. On or about November 1, 1993, Peters terminated employment with a realty firm then known as Barrett Realty Co. Inc. The termination involved at least a partial buy out, take over or spilt of Barrett Realty Co. Inc. in that Barrett Realty Co. Inc. then became known as Jay Barrett Realty Co. Inc. while Peters commenced doing business as a sole proprietorship known as Barrett Realty Co. A copy of a Notice of Employment of Broker or Salesperson form Peters sent to the Department concerning his termination of employment with Barrett Realty Co. Inc. is attached as **Exhibit 1** and is incorporated herein by reference.

5. On or about November 29, 1993, Peters submitted a Consent to Examine and Audit Trust Account form to the Department relating to his new real estate firm, Barrett Realty Co., Customer Trust Account # 10-5312, at M & I Marshall & Ilsley Bank, Milwaukee WI. Peters signed this document on November 29, 1993, as Individual Broker, Partner or Officer of Barrett Realty Co. A copy of the Consent to Examine and Audit Trust Account form is attached as **Exhibit 2** and is incorporated herein by reference.

6. On or about November 12, 1996, Department of Regulation and Licensing, Division of Enforcement Auditor Jeanne Pegelow sent a form letter to Peters for the purpose of up-dating Department records. In response to the following questions Peters provided the information underlined below.

How many real estate transactions have you performed in the last year? 18

Is the real estate trust account at M & I Bank Account # 00105312 still open? Yes

A copy of Ms. Pegelow's November 12, 1996, form letter as completed, signed and returned by Peters is attached as **Exhibit 3**, and is incorporated herein by reference.

7. Upon review of Peters' responses to Ms. Pegelow's questions (Exhibit 3) a case was opened for investigation because it was noted that with only a salesperson's license, Peters was not authorized to manage a trust account and perform other duties requiring a broker's license.

8. As part of the investigation process, Betsy Wood, an Investigator with the Division of Enforcement, requested Peters to explain his firm's trust account operating procedures. In response to that request Peters informed the Department by letter dated July 11, 1997, that Mary Marks, a licensed broker, had been hired to be in charge of his office. Mary Marks developed a medical condition that required her to be out of the office for extended periods of time and he intended to replace her with another licensed broker within a few days. A copy of Peters' July 11, 1997, letter to Investigator Wood is attached as **Exhibit 4** and is incorporated herein by reference.

9. Mary Marks' broker's license # 90 1832 expired on January 1, 1997, and has not been renewed to date.

10. On or about June 18, 1998, Peters forwarded a completed Notification of Change of Structure of Licensed Real Estate Business Entity form to the Department. On that form Peters indicated that licensed broker William Mann, License # 90 49238 would be performing the duties of "designated broker". A copy of the Notification of Change of Structure of Licensed Real Estate Business Entity form is attached as **Exhibit 5** and is incorporated herein by reference.

11. William Mann first received his real estate broker's license # 90 49238 on January 20, 1998.

12. From at least January 1, 1997, (the day Mary Mark's licensed expired) to January 20, 1998, (the day William Mann received his broker's license) Peters performed all broker functions for his firm Barrett Realty Co. while only possessing a salesperson's license.

COUNT 2

13. On or about November 19, 1999, Gene Kleinert, an auditor with the Department of Regulation and Licensing, conducted an audit of Barrett Realty LLC.'s trust account records. During the audit Mr. Kleinert found from at least January 1, 1999, through November 18, 1999, journals and ledgers had not been maintained and no monthly written account reconciliations, trial balances or validations had been performed. These discrepancies were detailed on a form 344 which is attached as **Exhibit 6** and is incorporated herein by reference.

COUNT 3

14. During the November 19, 1999, audit it was noted that William J. Morris was an active real estate salesperson for Barrett realty LLC.

15. On January 1, 1997, Morris' Wisconsin real estate salesperson's license expired and it was not renewed by him until on or about December 17, 1999. During that time frame he continued to practice real estate for Barrett Realty, LLC. as illustrated by paragraphs 16 through 18 below.

16. On or about July 18, 1999, Patrick Small entered into a Residential Listing Contract-Exclusive Right To Sell agreement with Morris for the sale of his property located at 4245 North 47th St. Milwaukee, WI. The listing price was \$39,900.00 with broker's commission to be \$3,500.00. The contract was to be in effect from July 18, 1999, to November 30, 1999. A copy of the Residential Listing Contract-Exclusive Right To Sell agreement is attached as **Exhibit 7** and is incorporated herein by reference.

17. On or about September 5, 1999, Morris drafted a Residential Offer To Purchase (form WB-11) on behalf of

John and Mary Demler for property located at 2815-17 North 48th St. Milwaukee, WI. The offered price was \$51,000.00, with closing to take place no later than October 31, 1999. Lines 9 & 10 of the Residential Offer To Purchase requires \$500.00 in earnest money in the form of a check to be paid within 2 days of acceptance. A copy of the Residential Offer To Purchase is attached as **Exhibit 8** and is incorporated herein by reference.

18. On or about January 21, 2000, the Department of Regulation and Licensing received from Morris a list of 10 transactions that he had been involved in while unlicensed and while yet employed by Barrett Realty LLC. A copy of the transaction list as provided by Morris is attached as **Exhibit 9** and is incorporated herein by reference.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent **Leo M. Peters** has violated:

a. Sections RL 17.03(4), RL 17.08(1), RL 17.08(2) RL 17.09(1), RL 18.09 and RL 18.13 of the Wisconsin Administrative Code and Sections 452.03, 452.14(i), and 452.14(L) of the Wisconsin Statutes by performing broker-employer and trust account duties requiring a broker's license while possessing only a salesperson's license from at least January 1, 1997, through January 20, 1998.

b. Sections RL 18.13(1), RL 18.13(2), RL 18.13(3), RL 18.13(4), RL 18.13(5) and RL 24.17(3) of the Wisconsin Administrative Code and section 452.14(3)(i) of the Wisconsin Statutes by failing to maintain a required cash journal and ledger and by failing to do required monthly account reconciliations, trial balances and validation from January 1, 1999 through November 19, 1999.

c. Sections RL 17.07 and RL 24.17(3), of the Wisconsin Administrative Code and Sections 452.03, 452.14(3)(i) and 452.14(3)(L) of the Wisconsin Statutes by failing to check William Morris' licensing status at the beginning of the 1997 biennial licensing period and allowing him to continue to act as a real estate agent in at least ten real estate transactions while he was unlicensed, i.e., from January 1, 1997, until December 17, 1999.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that **Leo M. Peters** real estate salesperson's license #94-742 be, and hereby is, **SUSPENDED** for two months effective the date of the Order.

IT IS FURTHER ORDERED, that Respondent **Leo M. Peters**, pay **PARTIAL COSTS** in this matter in the amount of a \$500.00, within 3 months of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent **Leo M. Peters**, fails to pay the \$500.00 partial cost within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Leo M. Peters**, all credentials issued to him under Chapter 452 of the Wisconsin Statutes shall be permanently suspended without further notice, hearing or Order of the Board, and said suspension shall continue until the full amount of partial costs have been paid to the Department of Regulation and Licensing and his failure to make said payment shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent **Leo M. Peters**, within six months of the date of this Order, successfully complete the following course module from the 72 hour pre-licensing real estate salesperson's course at an educational institution approved by the Department of Regulation and Licensing:

a. The Ethical Real Estate Practices module-section RL 25.03(3)(m) of the Wisconsin Administration Code.

and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this

requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that in the event Respondent **Leo M. Peters**, fails to successfully complete the educational requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Leo M. Peters**, his real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further order of the Board.

IT IS FURTHER ORDERED, that file 97 REB 147 be, and hereby is, closed.

Dated this 27th day of April, 2000.

WISCONSIN REAL ESTATE BOARD

By

Richard Hinsman

A member of the Board

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